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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,760	11/01/2001	William John Goetzinger	ROC920010201US1	2879
31647 DUGAN & DU	7590 02/22/2007 JGAN P.C.		EXAMINER	
55 SOUTH BR	ROADWAY		TSEGAYE, SABA	
TARRYTOWN, NY 10591			ART UNIT	PAPER NUMBER
			2616	
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SHORTENED STATUTOR	RY PERIOD OF RESPONSE	MAIL DATE	. DELIVERY MODE	
3 MONTHS		02/22/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)			
	10/015,760	GOETZINGER ET AL.			
Office Action Summary	Examiner	Art Unit			
	Saba Tsegaye	2616			
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with the c	correspondence address			
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING D. Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period of Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tin will apply and will expire SIX (6) MONTHS from the cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).			
Status					
1) Responsive to communication(s) filed on 28 N	ovember 2006.				
2a)⊠ This action is FINAL . 2b)☐ This	This action is FINAL . 2b) This action is non-final.				
	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is				
closed in accordance with the practice under E	Ex parte Quayle, 1935 C.D. 11, 45	53 O.G. 213.			
Disposition of Claims					
 4) Claim(s) 1-33 is/are pending in the application. 4a) Of the above claim(s) is/are withdraw 5) Claim(s) 9-22 is/are allowed. 6) Claim(s) 1-8 and 23-33 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or 	vn from consideration.				
Application Papers					
9) The specification is objected to by the Examine 10) The drawing(s) filed on is/are: a) access applicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the Ex	epted or b) objected to by the Edrawing(s) be held in abeyance. See ion is required if the drawing(s) is obj	e 37 CFR 1.85(a). sected to. See 37 CFR 1.121(d).			
Priority under 35 U.S.C. § 119					
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority documents 2. Certified copies of the priority documents 3. Copies of the certified copies of the prior application from the International Bureau * See the attached detailed Office action for a list of	s have been received. s have been received in Application ity documents have been received (PCT Rule 17.2(a)). of the certified copies not receive	on No ed in this National Stage d.			
.		inter− Megle in E			
Attachment(s)					
Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 10/12/06.	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal Pa	te			

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DETAILED ACTION

Response to Amendment

1. This Office action is in response to the amendment filed 11/28/06. Claims 1-33 are pending. Claims 9-22 are allowed. Claims 1-8 and 23-33 are rejected.

Claim Rejections - 35 USC § 101

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-8 and 23-33 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims are directed to algorithm that just manipulates data in a memory and it does not utilize the result to accomplish some useful task.

Regarding claims 28-33; the specification (page 20) discloses that a computer execute a carrier wave signal. Carrier wave signal is not statutory subject matter.

Allowable Subject Matter

3. Claims 9-22 are allowed.

Response to Arguments

4. Applicant's arguments filed 11/28/06 have been fully considered but they are not persuasive. Applicant argues that "merely because the claimed apparatus includes a "scheduler for a network processor" that is operative to execute an algorithm, does not preclude the apparatus from being statutory subject matter". Examiner respectfully disagrees. As stated above the claims are directed to mathematical algorithm that just manipulates data, which does

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not achieve a particular useful task. See MPEP 2106. Thus, these claims do not contain a practical application. Applicant further, argues that "Examiner's apparent assertion that Applicants invention is merely a carrier wave signal is incorrect". Examiner respectfully disagrees. Applicant specification discloses that computer program product is a carrier wave signal. Carrier wave signal is not statutory subject matter.

Conclusion

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saba Tsegaye whose telephone number is (571) 272-3091. The examiner can normally be reached on Monday-Friday (7:30-5:00), First Friday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on (571) 272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ST February 20, 2007

DORIS H. TO
SUPERVISUAY PATENT EXAMINER

TECHNOLOGY CENTER 2600